Motion to pass.

The Hon'ble Sri K. T. BHASHYAM.— Sir, I beg to move.—

"That the Mysore Restriction of Meetings near the Legislative Assembly Bill, 1951, be passed.

Mr. SPEAKER.—The question is :

"That the Mysore Restriction of Meetings near the Legislative Assembly Bill, 1951, be passed."

The motion was adopted.

The Mysore Prohibition (Amendment) Bill, 1951.

Motion to consider.

***The Hon'ble Sri H. SIDDAIYA** (Minister for Revenue and Excise).— Sir, I beg to move ;

"That the Mysore Prohibition (Amendment) Bill, 1951, be taken into consideration."

While moving this Bill for the consideration of this House, I just wish to say a few words. Strictly and legally speaking there is no necessity for section 47 for the simple reason that even in more heinous offences when persons are summoned by police officer their statements are not reduced to writing. They are not recorded or signed by the person who makes the statement. But in cases of less offences where the prohibition cases are under investigation the persons who are summoned by the prohibition officer, under section 47 as it now stands, are required to make statement and it is also provided in the said section that these statements shall be recorded and the person who makes that statement shall be required to sign the statement. This process of obtaining the signatures of the parties making statement in the course of investigation is not contemplated or prescribed even in more heinous crimes such as murder, decoity, and other cases. Even in those cases the police officer when he examines the persons summoned by him, it will be an oral examination and no signatures are prescribed to be taken. With a view to have speedy disposal of prohibition cases and also to avoid the expense, among other things, it is necessary that the statements need not be recorded nor their signatures be taken. It is therefore proposed to delete the section. This Bill is felt to be necessary at this stage after experience. It may therefore be accepted by the House.

Mr. SPEAKER.—The question is :

"That the Mysore Prohibition (Amendment) Bill, 1951, be taken into consideration."

The motion was adopted.

Mr. SPEAKER.—The clauses will now be submitted to the House. Clause 2—there is an amendment to it.

Sri K. PUTTASWAMY (Mandya District—General).—Sir, I beg to move the following amendment to clause 2 of the Mysore Prohibition (Amendment) Bill, 1951 ;

For clause 2, substitute the following :

"In section 47 of the Mysore Prohibition Act, 1948, the words 'such answer shall be reduced to writing and shall be signed by such officer' shall be deleted."

Sir, Section 47 as it now stands reads as follows.—

"persons so summoned shall attend as required and shall answer all questions relating to such enquiry put to them by such officer. Such answer shall be reduced to writing and shall be signed by such officer.

The object of this amendment, as explained by the Hon'ble Minister, is to avoid the statement so made to be reduced into writing and signed by such officer. In section 47, the second sentence is proposed to be omitted. This amendment to section would serve the purpose. I therefore commend this amendment for the kind acceptance of this House as that would serve the purpose of this Amending Bill.

Mr. SPEAKER.—Amendment moved.—

For clause 2 substitute the following :

"in section 47 of the Mysore Prohibition Act, 1948, the words 'such answer shall be reduced to writing and shall be signed by such officer' shall be deleted."

Janab MAHOMED HANIEF (Bangalore—Muslim).—Sir, I want to know the exact reason for this amending Bill. Is speedy disposal of cases the only reason or is there any other reason ? As it is, there is provision for the witness's statement to be reduced to writing and also to be signed and

accepted by him and this gives an opportunity to the accused at the time of trial to test the veracity and the correctness of this statement. But by this amending Bill, the accused loses that right.

Sri K. PUTTASWAMY.—The accused will have all the privileges that he is having under the Criminal Procedure Code. But under the Prohibition Act as at present framed, something more than the ordinary privilege is accorded to the accused. It enjoins that the statement made by the accused will have to be reduced to writing and signed by the officer concerned. As the learned Member is aware the statement so made is not reduced to writing and it is not obligatory that the same should be reduced to writing and it need not be signed by the person who makes the statement or by the person who records the statement. To remove that obligation contained in the Bill, this amendment is necessary.

Janab MAHOMED HANIEF.—But does not that obligation give authenticity to the statement recorded? Removal of the clause affects his right. Is not the right of the accused much better protected under the clause as it stands now?

The Hon'ble Sri H. SIDDAIYA.—Under section 151 of the Criminal Procedure Code, the officer is not required to sign nor the person who is examined before the police officer is required to sign. Just with a view to bring the Prohibition Act into line with the Criminal Procedure Code this amendment is sought for.

Sri Kadidal MANJAPPA (Shimoga District—General).—When the accused is before the Court he will have an opportunity of cross-examining witnesses with reference to the statement made by the Police Officer. Are you not going to take away that right by this amendment? That is the point which Janab Hanief wants to be clarified.

Sri K. PUTTASWAMY.—That right will be there. That right will not be taken away.

Sri Kadidal MANJAPPA.—When the statement is not reduced to writing and is not signed, where will he have that right?

The Hon'ble Sri H. SIDDAIYA.—It is within the knowledge particularly of legal-minded gentlemen and Members of this House that even in more heinous crimes such as murder, theft, etc., on no occasion is the statement of witness who has to appear before the police officer is signed. As such there is no necessity here for the simple reason that the offences under Prohibition Act are not as important as other heinous offences under the Penal Code. When there is no necessity for the persons or for the officer to sign the statement, much less so is it under this Act which is only social in character As it is, under section 54 of the Criminal Procedure Code and the Indian Penal Code all these things are done and it is made applicable under section 47 of this Act. The only point is, the latter portion in that section may be deleted and not the whole section. That means that the statement of witnesses shall not be reduced to writing and it need not be signed by the officer concerned. That is all the amendment.

Janab MOHAMED HANIEF.—I am quite aware of the fact that in murder cases and in all other cases when the investigation officer records the statement of the witnesses, these statements are not signed. They are not signed even by the police officer. But these statements are made available to the accused for purposes of cross-examination. I am quite aware of all that. There is one very vital difference. The statements are reduced to writing and they are required to be signed by the officer who records the statement. That means to say that this statement acquires a greater importance and greater authenticity. What I want to know is, whether the Government feel any difficulty during the course of the administration of the prohibition offences. It would make a great difference to the accused if the statement is not signed. Have the Government examined how it will work out adversely to the accused and how far the present section is a hindrance to the

(JANAB MOHAMED HANIEF.)

speedy disposal of cases? I am not at all opposed to this legislation coming into line with the Criminal Procedure Code.

The Hon'ble Sri K. T. BHASHYAM.— The difficulty arises this way. Section 56 of the Prohibition Act says :

"Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure."

Now the Criminal Procedure Code which applies to Mysore is the Central Code of Criminal Procedure and under section 161 no statement made by a witness could be insisted on being signed either by the witness or by a Police Officer. We are bound by it and we cannot have in this Prohibition Act any authorisation calling upon the Police Officer to sign it, because that will go counter to section 161 of the Criminal Procedure Code of the Central Government and we will be coming in conflict with that. Therefore we have got to remove it.

Sri Kadidal MANJAPPA.—Only the provision relating to the signature of the officer may be deleted and so far as the recording of statements is concerned it may be retained.

The Hon'ble Sri K. T. BHASHYAM.— Even for that, section 161 says :

"You are not bound to reduce it to writing."

If you say it is, it will be in conflict with the law.

Sri H. SIDDAVEERAPPA.—I would request the Hon'ble mover of the amendment to make it clear as to what advantage there is in retaining a part of the section by deleting certain words instead of deleting section 47 as the Bill now proposes.

The Hon'ble Sri H. SIDDAIYA.— The Hon'ble mover of the amendment wants this particular portion of that section to be retained for this reason. Under section 45 when a person is summoned by the Prohibition Officer or the Police Officer in this connection, supposing he refuses to appear before him. There is no provision made. It is only under section 47 he can be summoned and he shall be required to appear. That is why there is that provision which the Hon'ble Member feels is absolutely necessary. I also agree with him that that portion of that section is necessary. Another aspect of the case is this. It is felt that such recording is not necessary for the simple reason that under the Prohibition Act not merely tens or hundreds but thousands of cases are now being launched and their recording requires a big staff. That means not merely delay but also expense. That is felt not absolutely necessary. For the purpose of direction in cases where it is reduced to writing the court will have the benefit of it, but as such a procedure will be in conflict with the Criminal Procedure Code, particularly section 161, it is felt that this amendment also is necessary.

ಶ್ರೀ ಟಿ. ಮಾದಯ್ಯಗೌಡರು (ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ).— ಅಧ್ಯಕ್ಷರೇ, ಈ ಪ್ರೊಹಿಬಿಷ್ಷ ಆಕ್ಟನ್ನು ಅಂಗೀಕಾರಮಾಡತಕ್ಕ ಕಾಲದಲ್ಲಿ ಈ 47ನೆಯ ಸೆಕ್ಷನ್ನು ಉದ್ದಿಶ್ಯಪೂರ್ವಕವಾಗಿಯೇ ಇಟ್ಟಹಾಗೆ ನನಗೆ ಕಾಣುತ್ತದೆ. ಆದಕ್ಕೆ ಕಾರಣವಿಷ್ಟೆ—ಐ. ಪಿ ಸಿ. ಪ್ರಕಾರ ಬರತಕ್ಕ ಕೃತ್ಯಗಳಿಗೂ ಪ್ರೊಹಿಬಿಷ್ಷ ಆಕ್ಟ್ ಪ್ರಕಾರ ಬರತಕ್ಕ ಕೃತ್ಯಗಳಿಗೂ ಸ್ವಲ್ಪ ವ್ಯತ್ಯಾಸವಿದೆಯೆಂದು ನಾನು ಭಾವಿಸುತ್ತೇನೆ. ಇಲ್ಲಿಯತನಕ ಪ್ರೊಹಿಬಿಷ್ಷ ಆಕ್ಟ್ ಪ್ರಕಾರ ಬರುತ್ತಿದ್ದಂಥ ಕೃತ್ಯಗಳನ್ನು ಎಕ್ಸೈಜ್ ಅಧಿಕಾರಿಗಳು ತನಿಖೆ ಮಾಡುತ್ತಿದ್ದರು. ಈಗ ಅವು ಇವರ ಕೈತಪ್ಪಿ ಪೋಲೀಸ್ ಇಲಾಖೆಗೆ ವಹಿಸಿರುವಂತೆ ಕಾಣುತ್ತಿದೆ. ಈ ಪ್ರೊಹಿಬಿಷ್ಷ ಆಕ್ಟ್ ಪ್ರಕಾರ ನಡೆಯುತ್ತಿರುವ ಕೃತ್ಯಗಳು ಬಹಳ ವಿಚಿತ್ರವಾದವುಗಳು. ಅನೇಕ ಸಂದರ್ಭಗಳಲ್ಲಿ ಇಲ್ಲಿಸಿಟ್ ಡಿಸ್ಟಿಲೇಷ್ಷ ಮತ್ತು ಅವುಗಳ ಮಾರಾಟಮಾಡತಕ್ಕ ಅನೇಕ ಸಂದರ್ಭಗಳಲ್ಲಿ ಆ ಕೃತ್ಯಗಳನ್ನು ನಡೆಸತಕ್ಕ ಜನರು ಇರಾಖೆಯಲ್ಲಿರುವ ಕೆಲವು ಅಧಿಕಾರಿಗಳ ಷರೀಕಿನಿಂದ ಮಾಡತಕ್ಕದ್ದಾಗಿದೆ. ಹೀಗೆ ಷರೀಕಾಗಿ ನಡೆಯುತ್ತಿರುವುದರಿಂದ ಅವರುಗಳು ಕೆಲವು ಸಂದರ್ಭಗಳಲ್ಲಿ ತಮ್ಮ ಮೇಲೆ ಯಾವ ಗುಮಾನಿ ವಗೈರೆಗಳೂ ಬಾರದಂತಿರಲೆಂಬ ಉದ್ದೇಶಕ್ಕಾಗಿಯೇ ಕೆಲವು ಕೇಸುಗಳನ್ನು ನೆಪಮಾತ್ರಕ್ಕೆ ದಾಖಲ್‌ಮಾಡಿ, ಅವುಗಳಿಗೆ ಕೋರ್ಟಿನಲ್ಲಿ ಸಾಕಷ್ಟು ಸಾಕ್ಷ್ಯ ದೊರೆಯದೆ ಕೇಸು ಕೆಟ್ಟುಹೋಯಿತೆಂದೂ, ಮತ್ತೆ ಕೆಲವು ಸಂದರ್ಭಗಳಲ್ಲಿ ಅಪರಾಧಿಗಳಿಗೆ ಅಲ್ಪ ಸ್ವಲ್ಪ ಜುರ್ಮಾನೆ ಆಗುವಂತೆ ಮಾಡುತ್ತಿರುವುದಾಗಿ ನನಗೆ ತಿಳಿದುಬಂದಿದೆ. ಇಂಥಾ ಸಂದರ್ಭಗಳಲ್ಲಿ ಈ ಕೇಸುಗಳ ಬಗ್ಗೆ ಕೋರ್ಟಿಗೆ ಸಾಕ್ಷ್ಯ ನುಡಿಯಲು ಬರತಕ್ಕ ಸಾಕ್ಷಿಗಳು ತಾವು ತಮ್ಮ ವಿಚಾರಣೆಯ ಕಾಲದಲ್ಲಿ ಯಾವ ಎಕ್ಸೈಜ್ ಅಥವಾ ಪೋಲೀಸ್ ಅಧಿಕಾರಿಗಳ ಮುಂದೆ ಏನು ನುಡಿದಿರುತ್ತಾರೋ ಅಥವಾ ಏನು ಕೈಫಿಯತ್ತು ಬರೆದುಕೊಟ್ಟು ಅದಕ್ಕೆ ತಾವು ರುಜು ಹಾಕಿರುತ್ತಾರೋ, ಆ ಅಂತೆವನ್ನೇ ಅವರು ಸದ್ರಿ ಕೇಸು ಅಂತ್ಯ ತೀರ್ಮಾನವಾಗುವ ತನಕ ನುಡಿಯುವಂತೆ ಆಗಬೇಕು. ಹಾಗೊಂದುವೇಳೆ ಸದ್ರಿ ಸಾಕ್ಷ್ಯ ನುಡಿಯತಕ್ಕ ಮನುಷ್ಯನು ತಾನು ಮೊದಲೊಂದು ರೀತಿ ಹೇಳಿಕೆ ಕೊಟ್ಟು ಅದಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಕೋರ್ಟಿನಲ್ಲಿ ಮತ್ತೊಂದನ್ನು ನುಡಿದರೆ ತನ

ಗೊಂದು ತೊಂದರೆಯಾದೀತೆಂಬ ಭಯ ಅತನಿಗೆ ಇರ ಬೇಕು. ಹಾಗೆ ಮಾಡದಿದ್ದರೆ ಬಹಳ ತೊಂದರೆ ಉಂಟಾ ಗಬಹುದು. ಆ ಭೀತಿಗಾಗಿ ಈ ಸೆಕ್ಷನ್ ಇರಬೇಕೆಂದು ತೋರುತ್ತದೆ.

ಶ್ರೀ ಎಚ್. ಕೆ. ವೀರಣ್ಣಗೌಡರು.—ಅದಕ್ಕೆ ಕ್ರಿಮಿ ನರ್ ಪ್ರೊಸೀಜರ್ ಕೋಡಿನಲ್ಲಿ ಅವಕಾಶವಿದೆ.

ಶ್ರೀ ಟಿ. ಮಾದಯ್ಯಗೌಡರು.—ಇದರಲ್ಲಿ ಮುಖ್ಯ ವಾಗಿ ನೋಡಬೇಕಾದ್ದು ಒಬ್ಬೊಬ್ಬರಿಗೊಬ್ಬರು ಪರೀ ಕಾಗಿ ಕಾನೂನಿಗೆ ವಿರೋಧವಾಗಿ ನಡೆಯಲು ಅವಕಾಶ ವಿರಬಾರದೆಂಬುದೇ ಆಗಿದೆ. ಇಂಥಾದ್ದನ್ನು ತಪ್ಪಿಸಬೇ ಕಾದರೆ ಸಾಕ್ಷಿಗಳಿಗೆ ಒಂದು ಭಯವಿರಬೇಕು ಆದರೆ ಒಂದು ಕಡೆ ಇದ್ದರೆ ಮತ್ತೊಂದು ಕಡೆ ಇರಬಾರದೆಂದು ಹೇಳತಕ್ಕ ವಾದ ಅಷ್ಟು ಸರಿಯಾಗಿದ್ದಂತೆ ನನಗಂತೂ ಕಾಣುವುದಿಲ್ಲ. ಈಗ ಇರತಕ್ಕ ಪ್ರಕಾರ ಸಾಕ್ಷ್ಯ ನುಡಿ ಯತಕ್ಕ ಮನುಷ್ಯನಿಗೆ ತಾನು ಮೊದಲು ನುಡಿದಿರುವಂತೆ ಅಖೈರುತನಕ ನುಡಿಯದೆಹೋದರೆ ತನಗೆ ಒಂದು ತೊಂದರೆಯಾಗಬಹುದೆಂಬ ಹೆದರಿಕೆಗೆ ಅವಕಾಶವಿದೆ. ಇದನ್ನು ತೆಗೆದುಹಾಕಿದರೆ ಈ ಸಂಬಂಧವಾದ ಕೇಸುಗ ಳಲ್ಲಿ ಸರಿಯಾದ ರುಜುವಾತು ದೊರೆಯುತ್ತೆಂಬುದರಲ್ಲಿ ನನಗಂತೂ ನಂಬಿಕೆಯಿಲ್ಲ.

The Hon'ble Sri H. SIDDAIYA.—The effect is the same for the simple reason that even if it is signed it is inadmissible unless there is direction. As such the Hon'ble Member need not make much of this. Besides, this will be in conflict with the Criminal Procedure Code. It is with that object in view that this amendment is brought forward and that may be accepted.

Mr. SPEAKER.—The question is :

"That for Clause 2, substitute the following :

"In section 47 of the Mysore Prohibition Act, 1948, the words, 'such answer shall be reduced to writing and shall be signed by such Officer' shall be deleted."

The motion was adopted.

Mr. SPEAKER.—The question is :

"That Clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. SPEAKER.—Clause 1. The question is :

"That Clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

Mr. SPEAKER.—Title and Preamble. The question is :

"That the Title and the Preamble stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

Motion to pass.

The Hon'ble Sri H. SIDDAIYA.—Sir, I beg to move :

"That the Mysore Prohibition (Amendment) Bill, 1951, as amended, be passed."

Mr. SPEAKER.—The question is :

"That the Mysore Prohibition (Amendment) Bill, 1951, as amended, be passed."

The motion was adopted.

Mr. SPEAKER.—The House will now adjourn till one of the clock to-morrow.

The Assembly adjourned at Six of the Clock to meet again at One of the Clock on Tuesday, 20th March 1951.

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